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EXAMINER CHOL PETER H				
ART UNIT		PAPER NUMBER		
3623				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

michael.mathewson@wilmerhale.com

teresa.carvalho@wilmerhale.com

sharon.mathews@wilmerhale.com

### Office Action Summary

**Application No.**

10/648,808

**Applicant(s)**

ARMENTANO ET AL.

**Examiner**

PETER CHOI

**Art Unit**

3623

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 13-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 13-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. The following is a **NON-FINAL** office action upon examination of application number 10/648,808. Claims 1 and 13-26 are pending in the application and have been examined on the merits discussed below.

***Response to Amendment***

2. In the response filed October 31, 2008, claim 1 has been amended, claims 2-12 have been canceled, and claims 13-26 have been newly added and presented for examination. Claims 1 and 13-26 remain pending and have been examined on the merits below.

3. In the response filed October 31, 2008, the specification has been amended to refer to step S6 in Figure 1. Therefore, the previous objection to the drawings is withdrawn.

4. In view of the cancellation of claim 7, the previous rejection of the claim raised under 35 USC 112, 2nd paragraph is rendered moot and is hereby withdrawn.

***Response to Arguments***

5. Applicant's arguments with respect to claims 1 and 13-26 have been considered but are moot in view of the new ground(s) of rejection.

Specifically, Applicant argues the claims as amended, which are addressed in the updated rejection below.

**Official Notice**

6. Applicant has attempted to challenge the Examiner's taking of Official Notice in the Office Action mailed May 2, 2008. There are minimum requirements for a challenge to Official Notice:

(a) In general, a challenge, to be proper, must contain adequate information or arguments so that *on its face* it creates a reasonable doubt regarding the circumstances justifying the Official Notice

(b) Applicants must seasonably traverse (challenge) the taking of Official Notice as soon as practicable, meaning the next response following an Office Action. If an applicant fails to seasonably traverse the Official Notice during examination, his right to challenge the Official Notice is waived.

Applicant has not provided adequate information or arguments so that *on its face* it creates a reasonable doubt regarding the circumstances justifying the Official Notice. Therefore, the presentation of a reference to substantiate the Official Notice is not deemed necessary. The Examiner's taking of Official Notice has been maintained.

Bald statements such as, "the Examiner has not provided proof that this element is well known" or "applicant disagrees with the Examiner's taking of Official Notice and hereby requests evidence in support thereof", are not adequate and do not shift the burden to the Examiner to provide evidence in support of the Official Notice.

Furthermore, the Examiner notes that the Applicant has canceled the claims in which Official Notice was previously applied.

***Claim Rejections - 35 USC § 101***

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 1 and 13-26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1 and 13-26 are rejected under 35 U.S.C. 101 based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to a particular machine or apparatus or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876). If neither of these requirements is met by the claim, the method is not a patent eligible process under 35 U.S.C. 101 and is non-statutory subject matter.

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the other statutory class (the thing or product)

to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state. Nominal recitations of structure in an otherwise ineligible method fail to make the method a statutory process. The use of a specific machine or transformation of an article must impose meaningful limits on the claim's scope to impart patent-eligibility. See *Benson*, 409 U.S. at 71-72. Further, the involvement of the machine or transformation in the claimed process must not merely be insignificant extra-solution activity. See *Flook*, 437 U.S. at 590. Incidental physical limitations, such as data gathering, field of use limitations, and extra-solution activity is not enough to convert an abstract idea into a statutory process. In other words, nominal or token recitations of structure in a method claim do not convert an otherwise ineligible claim into an eligible one.

Although claims 1, 13 and 26 disclose a database for storing knowledge information, this is deemed to be insignificant extra-solution activity that fails to make the claims statutory. Furthermore, claims 1 and 13 disclose the step of performing data mining. Claims 1 and 26 disclose the step of performing predictive modeling. The steps of performing data mining and predictive modeling are not explicitly disclosed or inherently performed by a particular machine; therefore, these steps do not make the claims statutory. Here, the applicant's method steps can be performed without the use of a particular apparatus. Thus, claims 1 and 13-26 are non-statutory. A claimed process must use a specific, particular machine or apparatus to constitute patent-

eligible subject matter. See *Flook*, 437 US at 589 n.9 ("An argument can be made [that the Supreme] Court has only recognized a process as within the statutory definition when it either was tied to a particular apparatus or operated to change materials to a 'different state or thing' "). A claimed process involving a fundamental principle that uses a particular machine or apparatus would not pre-empt uses of the principle that do not also use the specified machine or apparatus in the manner claimed. See *Benson* 409 US at 64 ("the claims at issue "were not limited... to any particular apparatus or machinery..... [The claims] purported to cover any use of the claimed method in a general-purpose digital computer of any type.")

Dependent claims 14-25 merely add further details of the virtual mentoring process recited in claim 13 without including any tie to another statutory category nor any transformation of subject matter into a different state or thing.

Here, applicant's method steps, fail the first prong since they are not tied to another statutory class and can be performed without the use of a particular machine or apparatus. Thus, claims 1 and 13-26 are non-statutory.

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1, 13-14, and 16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Getting Results Through Learning", a May 1997 publication of the Federal Human Resource Development Council (previously provided, hereinafter referred to as FHRDC) in view of Johnson et al. (US Patent #6,067,525).

As per claim 1, FHRDC teaches a computer implemented method for providing virtual mentoring to a claim professional of an insurance organization, comprising:

- (a) storing knowledge data relating to mentoring a claim professional determined by:
  - (i) conducting discussions with designated leaders of multiple disciplines and advisory entities within the organization about the knowledge relating to the mentoring **(some strategies for organizational learning include: Meetings – Time is set aside for presentations from outside resource people giving a different perspective on agenda items.. Periodically, a facilitator is brought in to take the group through team-building exercises to improve communication and understanding... In meetings, managers play the role of teacher by asking questions, demonstrating systems thinking, and discussing lessons learned; Action learning - A group of employees is formed to analyze the problem and consult with experts. The group then returns to the workplace to take action; Cross-functional teams - individuals with different skills and backgrounds form a team to bring a**



**wide range of viewpoints to accomplish some task; Work-outs - an organizational equivalent of a town meetings... Teams composed of a broad spectrum of employees at all levels meet – without management – to seek answers to business problems; Strategic planning – groups working together to predict and prepare for their future. Through various planning processes, employees gain insight into the real business goals and priorities of the organization and the value of their contributions; Input is sought from the following sources to determine performance gaps or opportunities: Customers and clients, Supervisors, Incumbents, management, etc.) [Pages 14, 15, 53, Appendix C]; and**

**(ii) identifying various Quality Management (QM) results and outcomes considered by the organization based on the discussions (You can link learning to performance and organizational results by doing the following: 1. Review your agency's strategic plans and objectives. Every agency has a strategic plan, as mandated by the Government Performance and Results Act of 1993. This five-year plan describes how the agency will use its personnel, budget, and other resources to accomplish measurable performance goals; 2. Determine how you contribute to agency plans and performance requirements. What is your core expertise? What do you do best? Draw the relationship between your group's function and the mission, goals, and core competencies of the agency. Examine the ways you are expected to perform and the outcomes you produce. Are there**

**potential new ways you could lead, support, or participate? 3. Plan learning that supports your ability to contribute to agency objectives.... Identify the competencies necessary to meet performance goals and the learning activities that build and strengthen them) [Pages 18-19]; and**

(iii) converting the QM results and outcomes into the knowledge data for storing **(develop a training plan for your organizational unit by Defining learning needs linked to strategic plans, Reviewing other information to identify needs, Validate your list of needs, Determine the best strategies, Identify potential sources for learning, Estimate costs, Set priorities, Determine how to evaluate results, Share your plan with employees, customers, and other managers in your organization, Execute and monitor) {collecting the desired outcomes and approaches and measures for achieving the outcome to develop a training plan to be stored and disseminated throughout the organization} [Pages 21-23];**

(b) storing expert data determined by consulting experts on the identified QM results and outcomes within the organization to obtain each expert's individual experience and intellectual capital on the identified QM results and outcomes **(4. Focus on learning that addresses areas of performance weakness. Review the results of your organization's past performance. What are the strengths and weaknesses, and where are improvements needed? Most importantly, what learning can be done that will result in the biggest payoff to the agency in measurable results? 5. Create learning objectives that tie into business outcomes. Whenever possible,**

**set up learning that directly relates to your organization's critical success indicators. This helps ensure that the changes in your employees' performance are the ones desired and the ones measured), and converting the expert's individual experiences and intellectual capital into the expert data (Action learning – A group of employees is formed to analyze the problem and consult with experts; Cross-functional teams - individuals with different skills and backgrounds form a team to bring a wide range of viewpoints to accomplish some task. They collaborate on common work issues and learn from one another; Work-outs - an organizational equivalent of a town meetings... Teams composed of a broad spectrum of employees at all levels meet – without management – to seek answers to business problems; Strategic planning – groups working together to predict and prepare for their future. Through various planning processes, employees gain insight into the real business goals and priorities of the organization and the value of their contributions) [Pages 14-15, 19];**

(c) storing additional knowledge data relating to the mentoring determined through an exchange or extraction of information on designated topics that are presented in designated communications with members of the organization **(2. Review other information to identify needs – Review reports, agency “scorecards”, etc., Check the learning needs identified by employees, customers, and other sources) and converting the exchanged or extracted information into the additional knowledge data for storing in the knowledge database [Pages 21 ];**

(d) retrieving the stored knowledge data, the stored expert data, and the stored additional knowledge data and compiling detailed functional best practices and techniques of top functional experts based on the obtained individual experiences and intellectual capitals on the identified QM results/outcomes and on the additional knowledge **(Parallel learning structures – temporary study groups created to open new channels of communication outside and parallel to the normal, hierarchical structure of the organization; Corporate scorecard – the business equivalent of a speedometer or temperature gauge that tracks measurements that are important to the success of the organization. The scorecard tracks both financial and nonfinancial measures, including customer service, delivery time, improved quality, and other factors that contribute to organizational performance; Benchmarking – continually comparing your own organization with other organizations. The procedure consists of 1. identifying an area of your own organization that needs improving, 2. scanning the environment to find "model" organizations that have a recognized ability or accomplishment in that area, 3. studying the practices of this model organization, and 4. finding those features that can be adapted to work in your own organization; Computer conferencing – an application of computers and telecommunications for distance learning that provides an “electronic classroom” setting. Employees can interact with each other and with a leader (a coach, facilitator, or instructor) on discussion topics, problems, projects, and questions at their own convenience and at any location)**

[Pages 16, 17];

(e) data mining and retrieving claim data of a plurality of claims of the insurance organization relating to the knowledge data and the additional knowledge data **(The data gathered are rooted in the performance required for individual, team, and organizational success both currently and in the foreseeable future)** [Appendix C, Pages 53-54];

(f) performing predictive modeling of the claim data **(Cost/benefit analysis is consistently used in learning project proposals, including audience size, expected life/usefulness of the proposed learning process, scope of learning process – the desired performance outcome and the competency skills and knowledge components to be developed, high-level conceptual design of the learning process, design alternatives and potential migration strategies for incremental or staged delivery of the learning process, all costs associated with the design, development, implementation, delivery and maintenance of the learning process for its estimated life, statement of anticipated benefits: anticipated impact of the performance/behavior changes on existing organizational process and results performance measures, and contribution to organizational goals, mission, competencies)** [Page 55, Appendix C]; and

(g) providing the mentoring for the claim professional by interactively guiding the claim professional to process an identified claim responsive to at least one of the claim data, the knowledge data, the expert data, the additional knowledge data, predictive logic, the QUM results and outcomes, the functional best practices, and the techniques of top functional experts to provide training information to the claim

professionals of the organization based on each position and level of expertise of the claim professional within the organization **(3. The conclusions from the studies are summarized and competency profile and learning project recommendations developed by a team with representatives from all key stakeholder groups; Learning and performance support strategies are selected to maximize learning and performance enhancement in a minimal amount of timing... Problem-based learning, Action learning, Structured on-the-job training, Performance support systems, Systems that are available to the learner “just in time” provide “just the right” amount of content)** [Appendix C, Pages 54, 56].

FHRDC does not explicitly teach the steps of:

- (a) a knowledge database;
- (a)(iii) storing knowledge data in a knowledge database;
- (c) converting the exchanged or extracted information into the additional knowledge data for storing in the knowledge database.

However, Johnson et al. teaches the steps of

- (a) a knowledge database **(Data developed and used during the lead generation phase of the sales process is stored in and retrieved from a database in the data component 116)** [Column 4, lines 28-30];

(a)(iii) storing knowledge data in a knowledge database (**Data developed and used during the lead generation phase of the sales process is stored in and retrieved from a database in the data component 116**) [Column 4, lines 28-30];

(c) converting the exchanged or extracted information into the additional knowledge data for storing in the knowledge database (**A training component 14 facilitates the sales process by electronically providing training activities. In the preferred system, the training component 114 is integrated to the entire system such that salespeople are trained on product knowledge, sales skills, and the system usage using computer-based training...integration of training component 114 with the core processing components 103... facilitates automated training exercises on how to effectively use each of these components. By integrating training component 114 with the data component 116, training opportunities may be implemented using real information. For example, if sales personnel are being trained to prepare customer proposals and orders, actual up-to-date information and product descriptions can be used to ensure that the training process accurately reflects the actual sales process. The preferred system also recognizes sales events which are significant to training and may automatically initiate certain training functions on the basis of these training events; The expert system 2002 may monitor a large number of successful events and determine the common characteristics of the events and actions leading to successful events....In this manner, the expert sales system allows the entire sales force to**

**pool knowledge and experience such that the entire sales force gains from the shared experience)** [Column 6, line 64 - Column 7, line 18, Column 33, lines 48-54].

FHRDC is directed towards collecting data used for developing training programs, which may be delivered electronically, but does not mention the use of databases to store the collected data. However, Johnson et al. is directed towards integrating computerized subsystems to aid employees by drawing on expert data and practices stored in databases. Therefore, FHRDC and Johnson et al. are deemed to be analogous references, as they are reasonably pertinent to each other in developing and storing training materials. Thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of FHRDC to include a database for storing various types of collected knowledge data, because doing so enables FHRDC to integrate all modules of the training process, to permit an efficient exchange and use of information, as well as providing training information using real, actual up-to-date information based on events which are significant to training, as taught by Johnson et al. [Column 5, lines 21-23, Column 7, lines 15-8-18]

As per claim 13, FHRDC teaches a computer implemented method for providing virtual mentoring to a claim professional of an insurance organization, comprising:

(a) retrieving stored knowledge data comprising collective experience and intellectual capital of the insurance organization and its personnel, and store claim data of a plurality of claims of the insurance organization (**Parallel learning structures –**



**temporary study groups created to open new channels of communication outside and parallel to the normal, hierarchical structure of the organization; Corporate scorecard – the business equivalent of a speedometer or temperature gauge that tracks measurements that are important to the success of the organization. The scorecard tracks both financial and nonfinancial measures, including customer service, delivery time, improved quality, and other factors that contribute to organizational performance; Benchmarking – continually comparing your own organization with other organizations. The procedure consists of 1. identifying an area of your own organization that needs improving, 2. scanning the environment to find "model" organizations that have a recognized ability or accomplishment in that area, 3. studying the practices of this model organization, and 4. finding those features that can be adapted to work in your own organization; Computer conferencing – an application of computers and telecommunications for distance learning that provides an "electronic classroom" setting. Employees can interact with each other and with a leader (a coach, facilitator, or instructor) on discussion topics, problems, projects, and questions at their own convenience and at any location) [Pages 16, 17];**

(b) performing data mining of the claim data, wherein said data mining further comprises performing predictive modeling of the claim data **(Cost/benefit analysis is consistently used in learning project proposals, including audience size, expected life/usefulness of the proposed learning process, scope of learning process – the desired performance outcome and the competency skills and**

**knowledge components to be developed, high-level conceptual design of the learning process, design alternatives and potential migration strategies for incremental or staged delivery of the learning process, all costs associated with the design, development, implementation, delivery and maintenance of the learning process for its estimated life, statement of anticipated benefits: anticipated impact of the performance/behavior changes on existing organizational process and results performance measures, and contribution to organizational goals, mission, competencies)** [Page 55, Appendix C]; and

(c) executing an interactive virtual mentoring process with the claim professional which guides the claim professional in handling a particular one or more insurance claims, using the claim data, the knowledge data, and predictive logic **(3. The conclusions from the studies are summarized and competency profile and learning project recommendations developed by a team with representatives from all key stakeholder groups; Learning and performance support strategies are selected to maximize learning and performance enhancement in a minimal amount of timing... Problem-based learning, Action learning, Structured on-the-job training, Performance support systems, Systems that are available to the learner “just in time” provide “just the right” amount of content)** [Appendix C, Pages 54, 56].

Although not explicitly taught by FHRDC, Johnson et al. teaches the use of a database **(Data developed and used during the lead generation phase of the sales**

**process is stored in and retrieved from a database in the data component 116)**

[Column 4, lines 28-30].

FHRDC is directed towards collecting data used for developing training programs, which may be delivered electronically, but does not mention the use of databases to store the collected data. However, Johnson et al. is directed towards integrating computerized subsystems to aid employees by drawing on expert data and practices stored in databases. Therefore, FHRDC and Johnson et al. are deemed to be analogous references, as they are reasonably pertinent to each other in developing and storing training materials. Thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of FHRDC to include a database for storing various types of collected knowledge data, because doing so enables FHRDC to integrate all modules of the training process, to permit an efficient exchange and use of information, as well as providing training information using real, actual up-to-date information based on events which are significant to training, as taught by Johnson et al. [Column 5, lines 21-23, Column 7, lines 15-8-18]

As per claim 14, FHRDC teaches the method of claim 13, wherein the knowledge data includes at least one of special account instructions, state rules and regulations, functional best practices, quality management results or outcomes, and techniques of top functional experts **(4. Focus on learning that addresses areas of performance weakness. Review the results of your organization's past performance. What are**

**the strengths and weaknesses, and where are improvements needed? Most importantly, what learning can be done that will result in the biggest payoff to the agency in measurable results? 5. Create learning objectives that tie into business outcomes. Whenever possible, set up learning that directly relates to your organization's critical success indicators. This helps ensure that the changes in your employees' performance are the ones desired and the ones measured), and converting the expert's individual experiences and intellectual capital into the expert data (Action learning – A group of employees is formed to analyze the problem and consult with experts; Cross-functional teams - individuals with different skills and backgrounds form a team to bring a wide range of viewpoints to accomplish some task. They collaborate on common work issues and learn from one another; Work-outs - an organizational equivalent of a town meetings... Teams composed of a broad spectrum of employees at all levels meet – without management – to seek answers to business problems; Strategic planning – groups working together to predict and prepare for their future. Through various planning processes, employees gain insight into the real business goals and priorities of the organization and the value of their contributions) [Pages 14-15, 19].**

As per claim 16, although not explicitly taught by FHRDC, Johnson et al. teaches the method of claim 13, wherein the virtual mentoring is executed responsive to individual experience of the claim professional **(The training administration module 810, typically provided when in the self management component 110, is further**

**integrated to allow the user to manage their own training and self-improvement requirements... The training administration module 810 provides an overview of the user's employee development requirements (i.e., required training events), the associated certification tests and the recommended sequence of progression... The training administration 810 identifies both required and optional training events which may be driven by the salesperson's actual usage of the system)** [Column 22, lines 19-67].

As asserted above, FHRDC and Johnson et al. are deemed to be analogous references, as they are reasonably pertinent to each other in developing and storing training materials. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of FHRDC to further provide individualized virtual mentoring, because doing so would provide more focused and more effective mentoring to help reconcile specific gaps in knowledge, skill and ability, thereby increasing the usefulness to the user.

As per claim 17, although not explicitly taught by FHRDC, Johnson et al. teaches the method of claim 16, wherein the experience of the claim professional is determined by at least one of a skill set, an area of expertise, a job code, a length of service, a position, a level of expertise, a level experience and an exposure to insurance claims of the claim professional **(The training administration module 810, typically provided when in the self management component 110, is further integrated to allow the**

**user to manage their own training and self-improvement requirements... the certification module 814 certifies salesperson for use of the system for particular product lines or data and can require certain pre-determined levels of competency before access to the modules within the time with customer component 104 is granted...The training administration module 810 provides an overview of the user's employee development requirements (i.e., required training events), the associated certification tests and the recommended sequence of progression. This module controls access to the user's individual training events based upon prerequisites and the individual's completion of those prerequisites as determined by the certification tests carried out in the certification module 814) [Column 22, lines 19-67].**

As asserted above, FHRDC and Johnson et al. are deemed to be analogous references, as they are reasonably pertinent to each other in developing and storing training materials. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of FHRDC to further provide training based on the skill set and expertise of the user, because doing so would provide more focused and more effective mentoring to help reconcile specific gaps on knowledge, skill and ability, thereby increasing the usefulness to the user.

As per claim 18, although not explicitly taught by FHRDC, Johnson et al. teaches the method of claim 13, wherein the virtual mentoring is executed with a specific

frequency or at a specific time during management of the particular one or more insurance claims **(The training management module 812, is used by the system to report, monitor and coach the salesperson during training...The training administration module 810, typically provided when in the self management component 110, is further integrated to allow the user to manage their own training and self-improvement requirements... The training administration module 810 provides an overview of the user's employee development requirements (i.e., required training events), the associated certification tests and the recommended sequence of progression... The training administration 810 identifies both required and optional training events which may be driven by the salesperson's actual usage of the system)** [Column 22, lines 11-67].

As asserted above, FHRDC and Johnson et al. are deemed to be analogous references, as they are reasonably pertinent to each other in developing and storing training materials. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of FHRDC, to provide training at specific times or time frequencies, because doing so would provide the user with adequate time to prepare and study training materials needed to pass certification tests, which is a goal of Johnson et al. [Column 22, lines 30-67].

As per claim 19, although not explicitly taught by FHRDC, Johnson et al. teaches the method of claim 13, wherein the virtual mentoring is executed responsive to one or

more particular circumstances of the particular one or more insurance claims **(Through the event manager 201A, the subcomponent modules of the self management component 110 can be accessed as needed while using other components of the system; The objective management module 714 provides a structured sales process for the salesperson by integrating the best knowledge and expertise of an organization's best selling strategies. The salesperson is able to view guidelines and recommendations for each step and recommendations to overcome possible obstacles to move a prospect through a sales cycle)** [Column 19, lines 61-64, Column 21, lines 3-9].

As asserted above, FHRDC and Johnson et al. are deemed to be analogous references, as they are reasonably pertinent to each other in developing and storing training materials. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of FHRDC to further include the step of providing training in response to particular circumstances of particular claims, because doing so provides an ability to present the user with instant, real-time training information needed to supplement the user's skills and knowledge, or lack thereof, in order to properly process the claims.

As per claim 20, although not explicitly taught by FHRDC, Johnson et al. teaches the method of claim 13, further comprising at least one of:



(a) updating the stored claim data based on at least one of added or modified claim information and claim handling information (**the information in the global storage of the data component 116B can be updated using the data tools. The updated data will subsequently be communicated to the salesperson support system 100 to update the local storage of the data component 116A**) [Column 24, lines 20-25]; and

(b) updating the stored knowledge data (**FIG. 22 illustrates an alternative embodiment which incorporates an expert system 2002 which allows the system to learn successful sales approaches and automatically implement such approaches in future sales process. For example, the expert sales system may be programmed to monitor the sales processes for desired (successful) sales events...The expert system 2002 may monitor a large number of successful events and determine the common characteristics of the events and actions leading to successful events and then change the rules on the basis of this experience. In this manner, the expert sales system allows the entire sales force to pool knowledge and experience such that the entire sales force gains from the shared experience. This allows the successful tactics of experienced salespeople to be provided as defaults for inexperienced salespeople...The expert system 2002, may also be implemented to predict the most successful course of action based on the information available to the system at the time a sales event occurs. For example, an inference engine may be incorporated into the expert system 2002 to select an appropriate course of action to be taken when prior events of**

**interest suggest different, conflicting courses of action)** [Column 33, line 32—  
Column 34, line 13].

As asserted above, FHRDC and Johnson et al. are deemed to be analogous references, as they are reasonably pertinent to each other in developing and storing training materials. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of FHRDC to update stored claim data and knowledge data, because doing so provides updated, real-time information that is used as a basis for developing and delivering training materials to users.

As per claim 21, although not explicitly taught by FHRDC, Johnson et al. teaches the method of claim 20, wherein the stored knowledge data is updated based on at least one of new or modified state rules and regulations and special account instructions (**By integrating training component 114 with the data component 116, training opportunities may be implemented using real information. For example, if sales personnel are being trained to prepare customer proposals and orders, actual up-to-date information and product descriptions can be used to ensure that the training process accurately reflects the actual sales process...The customer module 404 also allows the user to enter free-form notes related to a particular customer's needs, proposal or presentation**) [Column 7, lines 8-14, Column 13, lines 16-18].

As asserted above, FHRDC and Johnson et al. are deemed to be analogous references, as they are reasonably pertinent to each other in developing and storing training materials. Therefor, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of FHRDC to further include the step of updating knowledge data based on special account instructions, because doing so would supplement known knowledge with special instructions for handling certain users or situations, would may further increase the usefulness to the user, and effectiveness of training.

As per claim 22, although not explicitly taught by FHRDC, Johnson et al. teaches the method of claim 20, wherein the predictive modeling comprises at least one model that is continually re-evaluated and adjusted based on the stored claim data **(The system may automatically calculate the probability of closing the sale with the date and value of each opportunity and process and consider both the sales status and the customer's buying status. The integration with other components of the system, allow the salesperson to quickly access opportunity, activity and value. The integrated automated support of opportunity management is facilitated by recognition of key opportunity events such as proposal creation and order entry via the event manager 201A, or automatically initiate other actions within the system. A forecasting module 710 is also provided within the self management component 110. The forecasting module 710 provides functional and product forecast information to the salesperson related to sales, revenue,**

**commission and profit sorted by accounts or products identified in the sort criteria. The forecasting capability provides information to the salesperson to enhance planning and prioritization of efforts. Integration with the sales system allows the forecasting module 710 to present information based on model, components, customer, time, and other criteria)** [Column 21, lines 20-39].

As asserted above, FHRDC and Johnson et al. are deemed to be analogous references, as they are reasonably pertinent to each other in developing and storing training materials. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of FHRDC to further provide models that are re-evaluated and adjusted based on stored claim data, because doing so provides updated and real-time information that may be utilized by the user in developing a plan of action, thereby enhancing planning and prioritization of efforts, as taught by Johnson et al. [Column 21, lines 35-36].

11. Claims 15, and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over FHRDC and Johnson et al. as applied to claims 13, 16 and 23 above, and further in view of Jacobs et al. (US Patent #6,049,794).

As per claim 15, although not explicitly taught by FHRDC or Johnson et al., Jacobs et al. teaches the method of claim 13, wherein at least one of the knowledge data and the claim data relates to the particular one or more insurance claims (a

**knowledge base of medical information organized into criteria sets. Each such criteria set contains data and rules for determining when treatment is medically appropriate... the criteria sets further include Intensity of Service, Severity of Illness, and Discharge screens for adults and pediatric patients, and indications for imaging studies and X-rays, indications for surgery and procedures, indications for primary and specialty care management, and surgical indications monitoring)** [Column 3, lines 1-20].

Jacobs et al. is directed towards using a knowledge base to provide an expert system to aid in processing health care information for users. Similarly, Johnson et al. uses a knowledge base to provide expert training to aid users in the sales process. FHRDC is directed towards developing and storing training materials in a knowledge base. Thus, Jacobs et al. is deemed to be analogous references to the teachings of FHRDC and Johnson et al., as they are reasonably pertinent in developing and storing a knowledge base for providing expert assistance to users in processing information. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of FHRDC to be directed towards insurance data and insurance claims, because doing so further enhances the dissemination of expert information to effectively aid users processing complex claims.

As per claim 23, although not explicitly taught by FHRDC or Johnson et al., Jacobs et al. teaches the method of claim 13, wherein the predictive modeling identifies

claims for referral for at least one specialty resource review **(The user starts, by assessing the patient 22. This assessment is typically done by a physician. The physician determines a course of action 24 based on the assessment. A nurse or physician's assistant next makes a phone call 26 to the payor (typically an insurance company or managed care organization) for authorization to proceed)** [Column 5, lines 32-38].

As asserted above, Jacobs et al. is deemed to be analogous references to the teachings of FHRDC and Johnson et al., as they are reasonably pertinent in developing and storing a knowledge base for providing expert assistance to users in processing information. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of FHRDC such that the predictive modeling identifies claims for referral to specialty resources, because doing so further enhances the dissemination of expert information to effectively aid users processing complex claims.

As per claim 24, although not explicitly taught by FHRDC or Johnson et al., Jacobs et al. teaches the method of claim 23, wherein the specialty resource is loss prevention and engineering, special investigations unit, major case unit, subrogation case unit, or medical management **(Each criteria set represents a particular domain within the health care context; A nurse or physician's assistant next makes a**

**phone call 26 to the payor (typically an insurance company or managed care organization) for authorization to proceed)** [Column 5, lines 13-14, 32-38].

As asserted above, Jacobs et al. is deemed to be analogous references to the teachings of FHRDC and Johnson et al., as they are reasonably pertinent in developing and storing a knowledge base for providing expert assistance to users in processing information. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of FHRDC to incorporate specialty resources, because doing so further enhances the dissemination of expert information to effectively aid users processing complex claims.

As per claim 25, although not explicitly taught by FHRDC or Johnson et al., Jacobs et al. teaches the method of claim 16, wherein the experience of the claim professional is in at least one of investigative claim unit, return to work, claim resolution unit, critical claim unit, and medical **(Users may include any of the following, nurse reviewer, physician assistant, physician, medical director, chief medical officer, and other health care workers who have been trained in the use of the system)** [Column 2, lines 29-38].

As asserted above, Jacobs et al. is deemed to be analogous references to the teachings of FHRDC and Johnson et al., as they are reasonably pertinent in developing and storing a knowledge base for providing expert assistance to users in processing

information. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of FHRDC such that it may be used by a claim professional in one of a plurality of specialty resource areas, because doing so further enhances the dissemination of expert information to effectively aid users processing complex claims.

12. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over FHRDC and Johnson et al, and further in view of Miller et al. (US Patent #5,446,653).

As per claim 26, FHRDC teaches a computer implemented method for providing virtual mentoring to a claim professional of an insurance organization, comprising:

(a) retrieving stored knowledge data comprising Quality Management (QM) results and outcomes data, stored expert data comprising expert experience and knowledge on the QM results and outcomes data, and stored additional knowledge data relating to mentoring information collected from members of the organization (**Parallel learning structures – temporary study groups created to open new channels of communication outside and parallel to the normal, hierarchical structure of the organization; Corporate scorecard – the business equivalent of a speedometer or temperature gauge that tracks measurements that are important to the success of the organization. The scorecard tracks both financial and nonfinancial measures, including customer service, delivery time, improved quality, and other factors that contribute to organizational performance; Benchmarking – continually**



**comparing your own organization with other organizations. The procedure consists of 1. identifying an area of your own organization that needs improving, 2. scanning the environment to find "model" organizations that have a recognized ability or accomplishment in that area, 3. studying the practices of this model organization, and 4. finding those features that can be adapted to work in your own organization; Computer conferencing – an application of computers and telecommunications for distance learning that provides an "electronic classroom" setting. Employees can interact with each other and with a leader (a coach, facilitator, or instructor) on discussion topics, problems, projects, and questions at their own convenience and at any location) [Pages 16, 17];**

(b) compiling functional best practice data based on the stored expert data comprising expert experience and knowledge on the QM results and outcomes data and the stored additional knowledge data **(Parallel learning structures – temporary study groups created to open new channels of communication outside and parallel to the normal, hierarchical structure of the organization; Corporate scorecard – the business equivalent of a speedometer or temperature gauge that tracks measurements that are important to the success of the organization. The scorecard tracks both financial and nonfinancial measures, including customer service, delivery time, improved quality, and other factors that contribute to organizational performance; Benchmarking – continually comparing your own organization with other organizations. The procedure consists of 1. identifying an area of your own organization that needs improving, 2. scanning the environment**

to find "model" organizations that have a recognized ability or accomplishment in that area, 3. studying the practices of this model organization, and 4. finding those features that can be adapted to work in your own organization; Computer conferencing – an application of computers and telecommunications for distance learning that provides an "electronic classroom" setting. Employees can interact with each other and with a leader (a coach, facilitator, or instructor) on discussion topics, problems, projects, and questions at their own convenience and at any location) [Pages 16, 17];

(c.) performing predictive modeling of claim data from a plurality of claims of the insurance organization relating to the knowledge data and the additional knowledge data (Cost/benefit analysis is consistently used in learning project proposals, including audience size, expected life/usefulness of the proposed learning process, scope of learning process – the desired performance outcome and the competency skills and knowledge components to be developed, high-level conceptual design of the learning process, design alternatives and potential migration strategies for incremental or staged delivery of the learning process, all costs associated with the design, development, implementation, delivery and maintenance of the learning process for its estimated life, statement of anticipated benefits: anticipated impact of the performance/behavior changes on existing organizational process and results performance measures, and contribution to organizational goals, mission, competencies) [Page 55, Appendix C];

(d) providing the mentoring for the claim professional by interactively guiding the claim professional to review an identified claim responsive to the claim data collected from the plurality of claims, predictive logic, QM results and outcomes data, the functional best practices, and techniques of top functional experts to provide training information to the claim professionals of the organization based each position and level of expertise of the claim professional within the organization **(3. The conclusions from the studies are summarized and competency profile and learning project recommendations developed by a team with representatives from all key stakeholder groups; Learning and performance support strategies are selected to maximize learning and performance enhancement in a minimal amount of timing... Problem-based learning, Action learning, Structured on-the-job training, Performance support systems, Systems that are available to the learner “just in time” provide “just the right” amount of content)** [Appendix C, Pages 54, 56].

Although not explicitly taught by FHRDC, Johnson et al. teaches the use of a database **(Data developed and used during the lead generation phase of the sales process is stored in and retrieved from a database in the data component 116)** [Column 4, lines 28-30] special account instructions **(By integrating training component 114 with the data component 116, training opportunities may be implemented using real information. For example, if sales personnel are being trained to prepare customer proposals and orders, actual up-to-date information and product descriptions can be used to ensure that the training process**

**accurately reflects the actual sales process...The customer module 404 also allows the user to enter free-form notes related to a particular customer's needs, proposal or presentation) and on-line help (The lead generation component 102 directed primarily to pre-sales activities and includes a number of modules that may be installed at various sites for the purpose of providing sales information with or without a salesperson present. These modules facilitate the connection of lead information that can be provided to the appropriate salesperson. Remote sites include trade shows, kiosks, Internet Web sites... The Web site module 304 may utilize much of the same functionality and interface used by the salesperson when using the time with customer component 104 (described more fully below). The Web site component 304, while providing an interactive information supply to the Web site user, collects information about the user which is provided to the salesperson in the form of a lead. The lead information provided to the salesperson may include a profile of the product or service selected by the prospective customer (lead) for follow-up sales activity by the salesperson)** [Column 7, lines 8-14, Column 13, lines 16-18, Column 11, lines 3-12, 51-57].

FHRDC is directed towards collecting data used for developing training programs, which may be delivered electronically, but does not mention the use of databases to store the collected data. However, Johnson et al. is directed towards integrating computerized subsystems to aid employees by drawing on expert data and practices stored in databases. Therefore, FHRDC and Johnson et al. are deemed to be

analogous references, as they are reasonably pertinent to each other in developing and storing training materials. Thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of FHRDC to include a database for storing various types of collected knowledge data, because doing so enables FHRDC to integrate all modules of the training process, to permit an efficient exchange and use of information, as well as providing training information using real, actual up-to-date information based on events which are significant to training, as taught by Johnson et al. [Column 5, lines 21-23, Column 7, lines 15-8-18].

Although the combined teachings of FHRDC and Johnson et al. do not explicitly teach the step of considering state rules and regulations, Miller et al. teaches a rule based document generating system for constructing insurance policies that considers state laws **(The generation of an insurance contract is further complicated by Various state laws that require different language for essentially the same coverage in different states. Certain states have other requirements that result in the addition of special clauses to the insurance policy. Prior to issuing a policy, it is critical to verify that the specific requirements of applicable state laws and regulations have been complied with in all respects...The collation of the proper endorsement pages with a core policy and verification for compliance with the relevant state laws is a complicated and time consuming process)** [Column 1, lines 60-66].

Miller et al. is directed towards ensuring that insurance policies are created that are in compliance with state laws while relying on a knowledge base of insurance policy clauses. FHRDC is directed towards collecting data used for developing training programs, which may be delivered electronically, but does not mention the use of databases to store the collected data. Johnson et al. is directed towards integrating computerized subsystems to aid employees by drawing on expert data and practices stored in databases. Miller et al. and Johnson et al. are further linked together in that they are both directed towards aiding users to apply information stored in knowledge databases in order to process information. Thus, FHRDC, Johnson et al. and Miller et al. are all directed towards collecting and using knowledge data for application by users, and are therefore deemed to be analogous arts as they are reasonably pertinent to teach other. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of FHRDC to include the use of state rules and regulations in processing claims, because doing so ensures that the claims have been processed in compliance with the specific requirements of applicable state laws and regulations, as taught by Miller et al. [Column 1, lines 60-66].

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tyler et al. (US Patent #5,523,942)

Bjergo et al. (US Patent #6,581,067)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PETER CHOI whose telephone number is (571)272-6971. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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February 2, 2009

/P. C./  
Examiner, Art Unit 3623

/Jonathan G. Sterrett/

Primary Examiner, Art Unit 3623